

## HOUSE BILL No. 1167

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-5-36.6.

**Synopsis:** Montgomery County superior court. Establishes Montgomery superior court No. 2 and abolishes the Montgomery county court. Transfers cases pending in the Montgomery county court to the Montgomery superior court No. 2. Provides that the judge of the Montgomery county court serves as the initial judge of Montgomery superior court No. 2. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** July 1, 2004.

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**Brown T, Thompson, Kuzman**

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January 13, 2004, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1167

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 33-5-36.6-1 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There ~~is~~ **are**  
3       established ~~a court~~ **two (2) courts** of record to be known as  
4       Montgomery superior court ~~The No. 1 and Montgomery superior~~  
5       **court No. 2. Each** court may have a seal containing the words  
6       "Montgomery Superior Court **(insert No. 1 or No. 2)** of Montgomery  
7       County, Indiana".

8       (b) Montgomery County comprises the judicial district of ~~the each~~  
9       court.

10       SECTION 2. IC 33-5-36.6-2 IS AMENDED TO READ AS  
11       FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) ~~The~~ **Each** court  
12       has one (1) judge, who shall be elected at the general election every six  
13       (6) years in Montgomery County. The term of the judge begins January  
14       1 following the election and ends December 31 following the election  
15       of the judge's successor.

16       (b) To be eligible to hold office as a judge of the court, a person  
17       must:

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- (1) be a resident of Montgomery County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

SECTION 3. IC 33-5-36.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~The~~ **Each** court has the same jurisdiction as the Montgomery circuit court.

SECTION 4. IC 33-5-36.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. ~~A~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Montgomery circuit court. ~~A~~ **Each** judge of the court may also administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 5. IC 33-5-36.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~A~~ **Each** judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Montgomery circuit court. Their salaries shall be paid monthly out of the treasury of Montgomery County as provided by law.

SECTION 6. IC 33-5-36.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The clerk of the court, under the direction of ~~the~~ **each** judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for ~~the~~ **each** court, which shall be kept separately from the books and papers of other courts.

SECTION 7. IC 33-5-36.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~The~~ **Each** court shall hold sessions in the Montgomery County courthouse in Crawfordsville, Indiana, or in such other places in the county as the Montgomery County executive may provide. The county executive shall provide and maintain suitable courtrooms and other rooms and facilities **for each court**, including furniture and equipment, as may be necessary. The Montgomery County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 8. IC 33-5-36.6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The jury commissioners appointed by the judge of the Montgomery circuit court shall serve as the jury commissioners for ~~the~~ **each** court. Juries shall be selected in the same manner as juries for the Montgomery circuit court. The grand jury selected for the Montgomery circuit court shall also serve as the grand jury for ~~the~~ **each** court as is necessary.

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SECTION 9. IC 33-5-36.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The judge of the Montgomery circuit court may, with the consent of the judge of ~~the a~~ court, transfer any action or proceeding from the circuit court to ~~the~~ **that** court. The judge of ~~the each~~ court may, with consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

SECTION 10. IC 33-5-36.6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The judge of the Montgomery circuit court may, with the consent of ~~the a~~ judge of the court, sit as a judge of ~~the that~~ court in any matter as if the judge of the circuit court ~~was were~~ an elected judge of the court. The judge of ~~the a~~ court may, with consent of the judge of the circuit court, sit as judge of the circuit court in any matter as if the judge of the court ~~was were~~ an elected judge of the circuit court.

SECTION 11. IC 33-5-36.6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. Each court has a standard small claims and misdemeanor division.**

SECTION 12. [EFFECTIVE JULY 1, 2004] (a) **At midnight on December 31, 2004, the Montgomery county court is abolished.**

(b) **Notwithstanding the amendment of IC 33-5-36.6 by this act, the Montgomery superior court No. 2 is not established until January 1, 2005.**

(c) **Any case pending in the Montgomery county court after the close of business on December 31, 2004, is transferred on January 1, 2005, to Montgomery superior court No. 2 established by IC 33-5-36.6-1, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division, established by IC 33-5-36.6-11, as added by this act, shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in Montgomery superior court No. 2.**

(d) **On January 1, 2005, all property and obligations of the Montgomery county court become the property and obligations of Montgomery superior court No. 2.**

(e) **The initial judge of Montgomery superior court No. 2 established by IC 33-5-36.6-1, as amended by this act, shall be the person who is the Montgomery county court judge on December**

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1 31, 2004. The term of the initial judge begins January 1, 2005, and  
2 ends December 31, 2006. The initial election of a judge for  
3 Montgomery superior court No. 2, established by IC 33-5-36.6-1,  
4 as amended by this act, is the general election conducted on  
5 November 7, 2006. The term of the initial elected judge begins  
6 January 1, 2007.

7 (f) This SECTION expires January 2, 2007.

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